THE WAIK!KI

Tourist Sinks in Presence of Spectators.

(From Saturday's Advertiser)

Winfield S. Crouch of Rochester, N. Y., who arrived yesterday from the mainland on the Pacific Mail steamship Korea, was drowned yesterday afternoon in the surf of Walkiki beach opposite the Hustace residence about halfway between the Waikiki Inn and the Moana Hotel. Despite the efforts of willing friends and spectators to revive the young man, death ensued quickly after his recond descent below the surface of the water.

The closing scenes of Mr. Crouch's life were witnessed by a number of persons, some being in the water near the unfortunate man and others standing on the Moana pier. Nearly all heard his agonized cry for help as he threw his hands above his head, and all saw him as he went beneath the waves. The calls of the spectators to native boatmen were too late for by the time aid reached Mr. Crouch his lungs had collapsed and by the time he was brought out and laid upon the beach, death had intervened. The assistance of Dr. Archer Irwin, a passenger on the Korea, and Dr. St. D. G. Walters of Honolulu, who were both at the Moana Hotel, was scientific but it came too late. The face of the deceased had turned so purple that fellow-passengers did not at first recognize him.

The body was removed to the morgue where a coroner's jury convened. The inquest was held last night. The remains will be embalmed and shipped back to Rochester, N. Y., where Mr. Crouch's widow and a little child re-

The tragedy was witnessed by several well known people including H. W. Lake, A. McKillop and Mr. Michaels who were fellow-passengers on the Korea, "Sonny" Cunha and Alian Dunn who were out in a canoe, Messrs, Harts-horn and Hughes, who were in the bathing party with Mr. Crouch, while other fellow-passengers were bathing near by.

At the inquest held last night at the police station under the direction of Deputy Sheriff Chillingworth, Dr. Walters stated he was at the Moana Hotel, whence he was summoned to the beach to attend a drowning man, He asked Dr. Irwin to join him. They ran along the beach on the sand to Mr. Cleghorn's place, and just before arriving saw two men lift a body out of a boat and carry it onto the lanai of the Waikiki Inn. They went there and Dr. Walters began to work over the body, Dr. Irwin joining him. The two doctors labored for about forty minutes using artificial respiration and hypodermie injections, but could get no re-Dr. sponse and no heart pulsations. Walters was of the opinion that the

phyxiation by drowning.

that of Dr. Walters.

John E. Hartshorn stated he had started for the shore, Mr. Crouch being then in possession of a surf-board. Suddenly they dropped into a hole where they could not touch bottom, Mr. Hartshorn swam back and reachattempted to paddle to the shore, but the surf-board slipped away from him, He shouted for help and Mr. Hartshorn started back for him. He grasped the board with one hand and then started for Mr. Crouch. The latter was shouting for help all the time. By the time Mr. Hartshorn, who is a poor swimmer, reached him, Mr. Crouch seemed to be floating on the water insensible. He held the drowning man up with one hand, until Mr. Hughes reached the pair. They started for the shore but in the meantime a boat had started from shore. By that time Mr. Crouch was dead. The body was taken abourd and conveyed to the beach.

Mr. Hughes sald his testimony was the same as that of Mr. Hartshorn, The coroner's jury brought in the following verdict:

That the said Winfield B. Crouch came to his death at Walkiki, in the district of Honoiulu, Island of Onlin, Territory of Hawaii, on the End day of April, 1904, from asphyxiation, to wit, by being accidentally drouned in the sucr at Walking Beach, Homelulu

Dissold regimered morning at the Young Hotel and his effects were incoment to his room from the strotter. Shortly after arrival is Bug him how he had fared on the morney, and he is said to have any sported that he was all pight. He calls gayayak bonders, hard intensive to remain in the solution to a mostless. He he said to be sufficiently of our THERE PERSON OF SHE

DANIEL SAR LONDON A patition is the party of the party of the patients of a first party of the patients of the p

GO AHEAD

McClellan Talks of the Military Post.

(From Saturday's Advertiser)

G, B. McClellan who went to Washington at the instance of Dillingham & Co., and the Merchants' Association returned yesterday with the report that the War Department Intended to start work very soon on the military camp at Kahauiki and would spend \$80,000 in improvements there. Mr. McClellan reported, also that an unofficial promise had been given, that when the post at Kahauiki is ready, the drillshed site will be turned over for the use of the Territorial government. His information as to work at Pearl Harbor is less favorable and Mr. McClellan believes that it will be two or three years before any serious effort will be made to improve Pearl Harbor.

"I was in Washington in a double capacity," said Mr. McClellan yesterday, "representing Dillingham & Co., and the Merchants' Association. In my labors for the Merchants' Association I worked in conjunction with the delegate, as instructed by the association here, calling with him on the Secretary of War, the Secretary of the Navy and the architect's bureau of the Treasury Department and various committes in regard to the army post, The Secretary of War informed us that action was to be taken immediately for the acquisition of the Kahauiki tract, which deal has since been consummated. The Adjutant General informed us that work for the immediate improvement of the land would be pushed at once. In answer to a question from the delegate as to the old armory grounds, as a site for a new armory building, the Adjutant General said unofficially that he would doubtless find the grounds available for that purpose as soon as the new buildings at Kahaulki are constructed. will be a probable outlay of \$80,000 on the new post, although there is no present prospect of any considerable increase in the force to be stationed

"The outlook for Pearl Harbor for the present is much less encouraging. The fact of the beginning of work on two different naval stations at Guantanamo and Subig Bay this year has on Pearl Harbor this year. Secretary Moody assured us that he would personally go into the matter with the general board before the next session of Congress, but as near as I could judge the situation at Washington. there will be no serious beginning of work at Pearl Harbor within the next two or three years, unless particular and concerted effort is made to get favorable action of the Navy Department, through the General Board, by the people of the Territory.

"It is very hard for the people of Hawaii to appreciate the difficulties of getting legislation in Congress. The pressure of general business is so great that even with a friendly disposition towards us it is always difficult to secure results. As an example of this, Alaska has been making a strong efneeded legislation revising the mining claim is everywhere acknowledged, no Dr. Irwin's testimony corroborated bill for the relief of the Territory has yet passed Congres

"I found the Hawaiian delegate, known Mr. Crouch during his lifetime. Prince Kuhio, making faithful and con-About 4:30 Mr. Crouch, a Mr. Hughes tinuous efforts to get results for his and himself went into the water for constituents, but it must be rememsurf-riding. They waded out in shal- bered in Hawaii, that it is an unwritten low water, and walked gradually down and universal law in Congress that no toward the Moana Hotel where they new member can secure results at once, The return of the delegate, together with his increased knowledge of Congressional work makes it possible for him to secure much needed legislation for Hawaii. The delegate spoke franked shallow water safely. Mr. Crouch by to me of the advantage that would come to him in having a well equipped vessels was again sighted. They form- to ships or fortifications is concerned. secretary and one able to assist him in ed in two divisions, one taking up a work before the committees and in the position behind Cape Liao Shan and various departments. The best helper shelling the shore and the Tiger penthe delegate could find, would be some insula, while the other bombarded the one familiar with the business ways of Golden Hill and other batteries from placed by Japanese torpedo boats dur-Congress.

> "I found Congress a much harder working body of men than I was prepared to expect, and a class of sian ships replied with an indirect fire, men whose honor is above re- and made good practice, one shot dampleased me most was the way the com- to some reports two Japanese ships mittee meetings were conducted. Any were injured. There was no damage responsible citizen who has ending matter, is given access to the committee hearings. They have regard mly for the simple, straightforwardness of the statement of facts and not for the position of the man. That we Arthur dated yesterday gives the folshown by the fact that in the face of the press of business in Congress if was posble to get a special rule to consider boats put to sea to scout. At about the electric and gas franchises.

"As to the electric franchise I am well satisfied with the way it passed longress. We wanted chiefly to amend to bill which granted the company a tarriest franchise for the whote island of testu, so as to limit it only to Ho. of the forts. The Besstrashni and the mining. The rate was also reduced from manyett were uttacked by als Japanes become to mercuters come a thomsand,"

From Routes. Most news calm lost ing the firing a Japanese shall struck and that a Japanese by the home of the terpeda room of the Bestranni Watshales had designated but There was a series explicitly and the following to a loss was sumpletely repetable The city of Japanese surrent tunnel other terpeda loss tarned back to six

A TRAGEDY AT READY TO NO MYSTERIOUS LOSS THUGS ARE NO RIGHT OF CELLULOID COLLAR

(From Saturday's Advertiser)

Man Chong's trial for the murder of Mahelona the policeman while arrest-ing him for chicken stealing reached the end of the prosecution's, and the beginning of the case for the defense yesterday afternoon. After one witness for the defense had been examined, a little past 3 o'clock, there was a failure of witnesses to appear and recess was taken until 7:30. There were many interesting inci-

dents in the trial yesterday.

"THE LOST COLLAR."

High Sheriff A. M. Brown was the last witness for the prosecution, his examination occupying but two or three minutes. He had seen Mahelona's dead body the night of the killing. Asked as to the body's appearance he testifled it had on a celluloid collar with a bullet hole to the right of the button-

Q .- "Where is that collar?"

A .- "It is in my possession." Q.-"Has it been in your possession ince that night?" A.—"Well, it was where I could lay my hands on it."

Q .- "Can you produce it?"

A .- "I can. Here it is." The High Sheriff suited the action to the word by bringing from his pocket the tell-tale collar. It was much stained with blood and showed the

deadly perforation well-defined. Dr. J. T. McDonald was the previous witness, testifying that a gunshot wound, most probably produced by a pistol bullet, had caused Mahelona's death. Probably the vertebral column or a cord thereof had been injured, but not desiring to mutilate the body further than necessary to satisfy himself of the cause of death he had not removed any of the spinal cord. The witness refused to give expert testimony upon calibers of bullets on crossexamination, beyond stating what he believed in a general way from his experience with gunshot wounds. He stated that it was possible, or even probable for a strong man, to engage in an intense physical struggle for a few minutes after receiving such a wound as he understood Mahelona received. This part of his testimony bore upon what young Clark had testified to, namely, that when he ran up to Mahelona and the Chinaman after hearing a pistol report the two men were staggering around, the policeman gripping his prisoner's collar, and that Chinaman of a pistol and grasped him of which went through Clark's arm.

helona at his death, gave exceedingly important and interesting evidence He told a story as "straight as a die," and was never swerved from his narrative by the many legal objections with which he was interrupted. These were to his repeating of conversations and stating of conclusions from given facts in answering questions, Mr. Ashford's cross-examination of this young Hawaiian witness, who testified in good English, did not produce the slightest variation in his original story, Clark's varying tone, responsive to the manner of the different questioners, caused much amusement to the court, jurors and spectators. Interrogatories pitched in a high key were echoed as to the particular note of the gamut touched by the questioner, while in response to the mild tones of Judge De Bolt the witness "cooed" his answers as gently as the "sucking dove" of Bottom's speech in "Midsummer Night's Dream."

When the prosecution had rested Mr. Ashford moved that the indictment be dismissed because it was signed by "E. C. Peters, Deputy Attorney General," and there was "no such officer known

to the law."

Judge De Bolt promptly denied the motion, when Mr. Ashford immediately moved that Mr. Peters be not permitted to proceed further with the prosecution, for the same reason as stated in the former motion. This was as promptly denied by the court,

"That's the same old story as was sprung on me in Maui," Attorney W. T. Rawling whispered to an Advertiser reporter.

Arthur Bullerton Doak, manager of the Star Dairy, Kahauiki, was called by Mr. Ashford, who declined to make an opening statement to the jury. Witness testified he had employed the defendant two and a half years and found him a willing worker and not quarrelsome.

Judge De Bolt did not want to admit individual testimony as to character, deeming it altogether irregular, but finally allowed the examination to

Mr. Ashford, in drawing a distinction between "character" and "reputation" in the endeavor to explain that the rule cited against him referred only to reputation, caused general laughter when he said:

"I should not like to have my character judged by my reputation."

On cross-examination witness said he never knew how defendant spent his made impossible the beginning of work after he (Clark) had disarmed the evenings, whether in chicken stealing or not, and ultimately admitted he about the neck Mahelona still held on knew nothing of his character beyond with one hand and fired four shots, one the traits mentioned in his examina-I tion in chief-that he "worked well" Charles K. Clark, who was with Ma- and "was not quarrelsome."

DETAILS OF WAR STORIES NOT GIVEN IN BRIEF CABLES

(MAIL SPECIAL TO THE ADVERTISER.)

Japanese officers of the General Staff karoff left the harbor with the battlehave arrived here under strict escort, ships Petropavlovsk, Poltava and Pohaving been arrested by the railroad bleda and the protected cruisers Asguard eighteen miles from this place, kold, Diana and Novik and attacked fort for three years to secure much They were dressed as Thibetan Lamas. the Japanese fleet. The latter began to deceased came to his death from as- laws. Although the justice of the their tents, in which were found sixty ships returned towards the nerbor. pounds of high explosives, a fuse, a On their way back the explosion ocroilroad nuts, etc.

> They evidently intended to blow up the bridge over the Nonni river near Fullardi. The prisoners displayed great ed. Verestchagin, the painter, who was coolness, confessing that it was their intention to destroy the railroad.

LAST WEEK'S FIGHTING.

PORT ARTHUR, Friday, April 15 .-(Delayed in Transmission,)-At six o'clock this morning a small Japanese squadron appeared on the horrizon and soon drew off, but at about 10 o'clock a hostile fleet numbering twenty-three a point opposite the roadstead. fire was continued intermittently until but there is a growing disposition in I o'clock in the afternoon. The Rus- unofficial quarters to accept this as pos-One of the features which aging a Japanese cruiser. According Japanese is generally believed, although facts done to the forts or the town. Some For example, the possibility of the ino present, and who is interested in a Chinese were killed and a few Chinese and Russians were wounded.

LONDON, April 16, 1:50 p. m.-A dissaich to the Central News from Port tave good friends in Washington is lowing account of the mid-week fight- Japanese shell, as no fighting was in

"Late Wednesday night eight torpedo-20 the next morning, when the flo-Beastrashni and the Smgoti, were overhauled by the ships of the enough which had been cruising in the neighborhood, but our of range of the guns torpede bosts, which were concern by series of displaces - district Million (Million) with a proposity of displacement of the manufacture of series and the manufacture of series and the manufacture of the first of the manufacture of the first of the

HARBIN, Manchuria, April 16.-Two rival of the flotilla, Vice Admiral Ma-In attempting to escape they forsook retire, whereupon the Russian battleand the Petr which sank in two minutes. Seventyfive members of her crew were picked up, but the rest, about 525 men, perishon board the Petropavlovsk, perished. This afternoon the bodies recovered after the explosion were interred." THE PETROPAVLOVSK MYSTERY

ST. PETERSBURG, April 16, 1:05 p. m.-No further details have been re ceived of yesterday's bombardment of Port Arthur except that it was practically without result as far as injury The loss of life was insignificant,

The mystery of the sinking of the battleship Petropavlovsk has not been cleared up. That she touched a mine ing the night is not officially admitted. sibly being the true explanation. That the mine was laid by a ruse of the some speculation is indulged in which may almost be described as fanatic troduction of an infernal machine into the coal-bunkers is advanced as an explanation of the explosion which undoubtedly occurred on board the battleship. The only thing affirmed with absolute certainty is that it was not a progress. All the papers scout the theory of the destruction of the Potrapaviovek having been caused by submarine boat, except the Novos tills was returning, two boats, the Vremye, which indignantly rejects the blen that Vice Admiral Makaroff cominitied unintentional suicide by being blown up by one of his own mines mitanding that both the Petropaviovski and Pobleda were atruck by torpedoes fired from submarine bouts, affirming

There is considerable artificians of the discogrance of the official disput-hose, some of the papers attingly appealing to the filterature for Tyth permetate atSENTENCED

Chinese Robbers The Territory Cannot Get Fisteen Years.

(From Saturday's Advertiser)

Sentence was pronounced by Judge De Bolt yesterday morning upon the three Chinese convicted of robbing a Japanese in his house at Walpahu, Oahu Sugar Co.'s plantation, at the point of a loaded pistol. They despoiled their victim of \$3 cash, which was the smallest part of the crime in point of villainy. It was their violence and threats of death which put the offense easily in the first degree. Lee Jim, Chew Hoy and Lee Yok were the culprits, and one after another they were sentenced to imprisonment at hard labor for fifteen years.

Chew Hoy and Lee Yok, through Interpreter Li Cheung, begged the court to sentence them to death rather than such long penal servitude. "The court has no power to do that," the Judge responded. He had previously informed them that he might, under the law, give them life imprisonment and that he believed there was a statute in Hawall at one time providing the death penalty for robbery in the first degree.

Another indictment for robbery is pending against the same men, for the robbery of a Japanese living back in the mountains the same night as the crime for which they have been sentenced. Moreover, they are suspected of the robbery of a white woman at Waipahu, or at least to belong to a gang that committed that crime and, further, to have done murder on the Ewa road in the case of a dead Japanese found with his pockets cleaned out.

JURY TRANSITION PERIOD.

In a unanimous opinion, written by Thief Justice Frear, the Supreme Court has sustained Judge Little of the Fourth Circuit in his overruling of a challenge to the array of jurors and of a motion to quash the venire. The questions arose in the case of Territory of Hawaii vs. Ng Kow. When much of the old jury law of Hawaii had been epealed by the Organic Act, Circuit Judges were at a loss and took different ways to decide as to how juries should be obtained until the Legislature enacted a new jury law.

Judge Little decided to select jurors

under what remained of the old law and, to be on the safe side further, he ssued an open venire to the sheriff to summon the same jurors as those so selected. The court in its syllabus holds that it is immaterial whether an open venire was invalid or whether such could issue at all under our statutes, if the venire under the statute was valid. That the venire under the statute was valid is held as follows: "From the establishment of Territo-rial government until the jury law

of 1903 took effect, it was proper to obtain trial juries in the mode prescribed by the Hawaiian statutes as amended by the Organic Act. The Organic Act did not repeal so much of such statutes as to leave the rest inoperative.'

The conclusion of the opinion is thus given:

"The exceptions are overruled and the case is remanded to the Circuit Court for any further proceedings that may be proper and consistent with this pointon.

L. Andrews, Attorney General, for Territory: Kinney, McClanahan & Bigelow, Smith & Parsons and Thayer & Hemenway for the defendant. The strong array of counsel against Government is explained by the fact that many criminal cases tried in what may be called the "jury transition period" depended on the issues in this

MISSING THOUSAND DOLLARS.

In the matter of the estate of Kualana (w), deceased, Judge Robinson appointed J. A. Thompson as administrator under a bond of \$1000. Edmund H. Hart had been the temporary admin-Hulhui, who prayed for the same appointee in a permanent capacity. the hearing C. W. Ashford appeared for the petitioner, and W. T. Rawlins for D. Kallua, contestant. It was at the request of Rawlins that Thompson was appointed, Ashford having no objections to the appointment. Huihui claimed to be the nephew of deceased, testifying at a former hearing that he knew of no other relative. He believed it was necessary to have a temporary administrator at that time so that one Kalewe (kr. who had lived with the deceased, should not dispose of the \$1000 cash which the petitioner understood to constitute the estate. In the hearing, when Thompson was

appointed, Kaiewe falled to account for the \$1000 and was summarily committed to the grand jury.

OTHER PROBATE MATTERS

Judge Robinson granted the petition of W. F. Allen, guardian of Walter Ross Opfergett and Leonora Opfergelt. lowattee from \$40 to \$60. Walter is now 14, and Leonora 12 years of ago, and putitioner represented that former alloyance was inadequate in the first for this first time on this or, them, awing to their advancing years and increasing needs. The mean ringlish or Amorgan submirring laure. The estate for 1802 was \$580, and the and hinting that they might have been account expense for the care, mainteaccular exposes for the cure, mainte-Dance and education of the cultifren In the suit of Frank fluttrey true-

J. A. Gilman, administrator of the state of John Phillips, decreased, but Similar Deploy the Mingles and good for the Court of the Court of the Month of the Margarian Chapt of the Similar and the Court of the Court of the Margarian of the Margarian Chapt of the Similar of the Margarian of the Margari

Dispose of Lands.

An important ruling, confirming previous opinions to the effect that the Ter-ritory of Hawaii has no right to dispose of public lands vested in the United States is made by the War Department in the matter of the Oahu Railway right of way across Kahauiki tract. The Oahu Railway obtained a right of way across the military reservation, although previous to its being taken over for such purposes and in view of technical acres. purposes and in view of technical ques-tions raised secured the passage of a bill in Congress confirming their right of

The ruling made by Judge Davis, Ad-vocate General, in the War Department, is that the grant of right of way was illegal. The explanation made by Governor Carter that the transfer was made before the tract was set aside by the president, is also said to be unsatisfac-

Secretary Taft in passing finally upon the matter, and condensing the findings of his legal advisers, says:

As pointed out in the letter of the Department to the governor, the United States acquired, under the joint resolution of July 7, 1898 (30 Stats., 750), "absolute fee and ownership of all public government or crown lands" then be-longing to the government of Hawaii, and thereafter no interest in such lands could be granted without authority from Congress. By section 73 of the act of Congress of April 30, 1900 (31 Stats., 154)—"all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian govranches granted by the Hawanian government in conformity with the laws of Hawani" between July 7, 1898, and September 28, 1899, were "ratified and confirmed"—subject to the approval of the President, but it was expressly provided that—there shall be excepted from the provisions of this section all lands here-tofore set apart or reserved by Executofore set apart or reserved by Executive order or orders by the President of the United States.

In other words Congress, in ratifying the unauthorized dispositions of public lands by the authorities of Hawaii expressly provided that such ratification should not apply to lands set apart or reserved by Executive order, so that dis-positions affecting such reserved lands positions affecting such reserved lands continued to be inoperative and void. As the relocation of the line was approved September 2, 1898, and authorized by deed of February 4, 1899—i. e., after the title to the lands passed to the United States under the joint resolution of July 7, 1898—it was inoperative, and the attempted disposition, so far as it the attempted disposition, so far as it affected the military reservation, is not covered by the ratification made by the

act of April 30, 1900.

However, as stated by the governor, the relocation of the line was authorized prior to the reservation of the lands for military purposes, and the deed of April 29, 1903, was made to place on record a description of the original right of way acquired in 1889 on approval of the maps of location of the railway. In both deeds the right of way for

the railway is described as being 40 feet in width, 20 feet on each side of the center line.

The power to dispose of the real propcongress and can only be exercised by the Executive with the express legislative consent. I knew of no objection to ratification of the conveyances in question, and in view of the facts as stated above it would seem that such action should be taken.

I have the honor, therefore, to recommend that the act of the Hawaiian government in granting a right of way across the Kahauiki be authorized. The draft of an appropriate clause of legislation is submitted nerewith. Very respectfully

WM. H. TAFT. Secretary of War.

THE EXCRUCIATING PAIN from corns, bunions, or chilblains may be avoided by a free application of Cham berlain's Pain Balm. For sale by all istrator on the petition of Henry H. Dealers and Druggists. Benson, Smith & Co., Ltd., Agents for Hawaii. ------

> estate of the late Dr. Richard Oliver, has rendered his final account. It shows expenses of \$37.25 and no receipts. The only property of the estate was a life insurance policy for \$5000, but this had been assigned to A. S. Cleghorn as security for debt amounting to \$59,076,74,

> Judge De Bolt appointed A. G. Silva guardian of the three remaining minor children of the late A. C. Pestana in place of Frank Andrade, withdrawn. It was stated that Mary Pestana had come of age, and the guardian was authorized to pay the mother of the minors \$50,

Judge De Bolt granted the petition of the mother of Freddy and George Ferry, ordering that the clerk be authorized to settle his accounts pertaining to the minors, the mother's receipt to be sufficient acquittance of the clerk, Accounts of W. O. Smith, guardian of Bill Bray, were approved by Judge Do They showed a balance of 1168.70 out of \$1651.40 received for the year,

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E. H. Harr was appointed by Judge In Bolt guardian of Kawathannurakahosponican (k), minor, without bond until an application for leave to sett real estate in made

COTHY MOTHER

well. Reterizon & Wilder for defends and more in the clients Court to have the complaint dismissed surrounts to